

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, SEPTEMBER 19, 2013**

PRESENT: Earl L. Flanagan, Mount Vernon District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
James T. Migliaccio, Lee District
Peter F. Murphy, Springfield District

ABSENT: Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
Timothy J. Sargeant, Commissioner At-Large

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The meeting was called to order at 8:21 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Hart announced that the Planning Commission's Environment Committee had met earlier this evening to receive a presentation from staff regarding the upcoming Stormwater Ordinance and Public Facilities Manual Amendments, stating that the public hearing for these items would be on Wednesday, October 9, 2013. He said that Commissioners should submit additional questions to staff via email so that they could be addressed prior to the hearing. He added that the Committee would meet again at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center on the following dates and invited the public to attend:

- Thursday, October 17, 2013 (Discussion on electric vehicle supply equipment)
- Wednesday, November 6, 2013 (Discussion on electric vehicle supply equipment)
- Wednesday, December 4, 2013 (Agenda to be determined)

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Chairman Murphy announced that the Planning Commission's Joint Housing Committee would meet at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center on Wednesday, September 25, 2013.

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Chairman Murphy announced that the Planning Commission would conduct a workshop on the proposed Zoning Ordinance Amendment regarding Residential Studio Units at 8:15 p.m. in the Board Auditorium of the Fairfax County Government Center on Wednesday, September 25, 2013. He noted that the workshop would not include a public hearing, but the public was invited to attend and any questions from the public regarding this issue could be submitted electronically or in a written statement to the Commission. He added that the next public workshop on this case would be on Wednesday, October 2, 2013.

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FSA-P01-24-3 – VERIZON, 3050 Chain Bridge Road

Chairman Murphy MOVED THAT THE PLANNING COMMISSION APPROVE CONSENT AGENDA ITEM, FSA-P01-24-3.

The motion carried by a vote of 9-0. Commissioners de la Fe, Donahue, and Sargeant were absent from the meeting.

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. AR 87-S-003-03 – COX-RICHARD FAMILY FARM, LLLP; AARON COX-RICHARD AND MARIA LEOW-WILCHER
2. CSPA 2004-PR-044-02 – MACW PROPERTY MANAGEMENT, LLC
3. 2232-B13-8 – MILESTONE COMMUNICATIONS, INC. AND AT&T MOBILITY
4. SE 2013-MV-006 – MOHAMMAD MANSOOR
5. SE 2013-LE-003 – DDR SOUTHEAST SPRING MALL, LLC

This order was accepted without objection.

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AR 87-S-003-03 – COX-RICHARD FAMILY FARM, LLLP;
AARON COX-RICHARD AND MARIA LEOW-WILCHER –
Appl. Renewal authorized by Chapter 115 (County Code),
effective June 30, 1983, to permit renewal of a previously-
approved agricultural and forestal district. Located at 15621
Braddock Road, Centreville, on approx. 115.68 ac. of land zoned R
C and WS. Tax Map 43-1 ((1)) 13Z, 17Z, 18Z, and 19Z. SULLY
DISTRICT. PUBLIC HEARING

Commissioner Litzenberger asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore,

Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE AR 87-S-003-03 AND AMEND APPENDIX F OF THE FAIRFAX COUNTY CODE TO RENEW THE COX LOCAL AGRICULTURAL AND FORESTAL DISTRICT, SUBJECT TO THE ORDINANCE PROVISIONS DATED AUGUST 28, 2013.

Commissioners Hart, Hedetniemi, and Flanagan seconded the motion which carried by a vote of 9-0. Commissioners de la Fe, Donahue, and Sargeant were absent from the meeting.

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CSPA 2004-PR-044-02 – MACW PROPERTY MANAGEMENT, LLC – Appl. under Sect. 12-210 of the Zoning Ordinance to amend the previously approved Comprehensive Sign Plan associated with RZ 2004-PR-044 to permit sign modifications. Located in the S.E. quadrant of the intersection of Chain Bridge Road and International Dr. on approx. 78.64 ac. of land zoned PDC, HC, and SC. Tax Map 29-4 ((1)) 35A and 35 C; 39-2 ((1)) 2, 4, and 5. PROVIDENCE DISTRICT. PUBLIC HEARING

Megan Duca, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application CSPA 2004-PR-044-02.

When Commissioner Hart asked for clarification on Development Condition Number 15 and Development Condition Number 18, Ms. Duca explained that Development Condition Number 15, which prohibited the use of flashing or streaming text, symbols, or lights on any sign on the property, meant that changes on the sign would be instantaneous from one message to another. She then clarified that Development Condition Number 18, which restricted the use of signs with changeable electronic displays to depicting only way-finding information for significant events on the property, permitted the contents of the sign to be changed a maximum of three times in a 24-hour period. A discussion ensued between Commissioner Hart and Ms. Duca regarding the possible content of signs with changeable electronic display wherein Ms. Duca referenced page 25 of Appendix 2 in the staff report as an example.

Commissioner Flanagan asked whether the conditions in Development Condition Number 15 were consistent with the Zoning Ordinance, Ms. Duca indicated that these conditions were similar to restrictions contained in the Zoning Ordinance regarding flashing lights or streaming text. A discussion ensued between Commissioner Flanagan and Ms. Duca regarding the possible use of streaming text on the signs at the site if it were permitted in a future modification to the

Zoning Ordinance wherein Ms. Duca stated that another amendment would be necessary if the applicant sought to utilize such signage.

Commissioner Migliaccio expressed concern that Development Condition Number 21 would conflict with the functionality of the Type D-1 signs, which displayed real time information on available parking. A discussion ensued between Commissioner Migliaccio and Ms. Duca, with input from Catherine Lewis, ZED, DPZ, on whether the condition or the Zoning Ordinance permitted such signs wherein Ms. Duca stated that staff would modify the condition to ensure that their use was permitted on the site.

When Commissioner Hedetniemi asked if there would be a mechanism within the garage on the subject property to control the display of the sign, Ms. Duca confirmed that such a mechanism would be utilized.

Hillary Katherine Zahm, AICP, Applicants Agent, Senior Development Manager, said that the proposal would amend a Comprehensive Sign Plan Amendment previously approved for the site on April 18, 2012, by modifying the way-finding signage to support an improved parking management system. She then described this new system, stating that it would guide vehicles to available parking spaces. She also addressed Commissioner Migliaccio's concern, saying that the development conditions would be modified to ensure that the necessary signs could display real time information on available parking. Ms. Zahm indicated that the parking management system would be implemented in conjunction with the opening of the Silver Line Metrorail. In addition, she noted that the proposal included other minor modifications to the signage on the subject property.

Commissioner Lawrence supported modifying Development Condition Number 21 as previously discussed and asked Ms. Zahm if she would meet with staff briefly to incorporate the necessary language. Ms. Zahm agreed to this request. Subsequently, Commissioner Lawrence requested that the Commission delay voting on this case and continue to the next public hearing while the language was finalized. Without objection, Chairman Murphy suspended action on this case.

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2232-B13-8 – MILESTONE COMMUNICATIONS, INC. AND
AT&T MOBILITY – Appl. under Sects. 15.2-2204 and 15.2-2232
of the Code of Virginia to consider the proposal by Milestone
Communications, Inc. and AT&T Mobility to develop a
telecommunications facility located at 9120 Burke Lake Road,
Burke, VA. Tax Map: 78-2 ((1)) 1. Area III. BRADDOCK
DISTRICT. PUBLIC HEARING

Doug Hansen, Planning Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended that the Planning Commission find application 2232-B13-8 substantially in accord with the provisions of the adopted Comprehensive Plan.

Referencing a photograph depicting the cinderblock structure containing the generator for the proposed facility, Commissioner Hurley stated that she was initially concerned about this structure, but indicated that its design and color palate was appropriate for the site. When she asked staff to describe the roof of the structure, Mr. Hanson stated that it would consist of a chain link design. Commissioner Hurley then explained that since this structure would be within a school site, it could not be open and the roof on top of the structure had to be open to accommodate the diesel generator. (A copy of the photograph is in the date file.)

When Commissioner Flanagan pointed out that Sheet Z-10 of the AT&T Diesel Generator Details in the staff report depicted a board-on-board fence for the structure containing the generator rather than the chain link fence preferred by staff, Mr. Hansen explained that this had been revised in two subsequent revisions to the proposal. He then noted that the Zoning Ordinance required that the structure be screened by a chain-link fence and the applicant had subsequently modified the design of the structure to include a cinderblock wall.

Frank Stearns, Esquire, Applicants Agent, Donohue & Stearns, PLC, commended staff, Commissioner Hurley, and Braddock District Supervisor John Cook for coordinating with the applicant on this proposal to ensure an appropriate design and location for the facility. He said that the applicant had also coordinated with the Braddock District Land Use Committee, who had submitted a letter stating that while they did not object to the proposal, they were concerned about the generator. Mr. Stearns addressed those concerns, explaining that the initial plan for the proposal included two generators, one for AT&T and one for a possible co-locator, and when the plan was re-filed in August 2013, the second generator was removed. He added that the applicant was subsequently asked to re-add the second generator, but since doing so would delay the application beyond the window for construction, it was decided that the applicant would proceed with one generator. In addition, he noted that if a co-locator sought to install a second generator, then an amendment to the subject application would be required. Mr. Stearns stated that other high schools throughout the County utilized similar facilities and the proposed facility was needed to meet the growing demand for telecommunication services. (A copy of the Braddock District Land Use Committee's letter is in the date file.)

Commissioner Litzenberger said that he supported the proposal. He also noted that a similar facility had been constructed at Chantilly High School and there had been no issues with this facility.

Responding to questions from Commissioner Hurley, Mr. Stearns indicated that the generator would be tested on a monthly basis and would be serviced by fuel trucks as needed during prolonged outages. He also stated that the installation of additional generators at existing or future facilities would be determined on a case-by-case basis, noting the difficulty of installing the necessary enclosure for the generator at a school site. Mr. Stearns confirmed that the generator could supply power to more than one user of the facility and the need to install another generator to accommodate additional users would also be determined on a case-by-case basis. In addition, he supported efforts to encourage sharing the capacity of telecommunication facilities amongst multiple users. Commissioner Hurley and Chairman Murphy echoed Mr. Stearns's remarks regarding the encouragement of shared capacity and Commissioner Hurley added that doing so would reduce the proliferation of telecommunications facilities.

There being no listed speakers, Chairman Murphy called for speakers from the audience and recited the rules for public testimony.

Fred Silverberg, 9106 Lyon Park Court, Burke, spoke in opposition to the proposal because of its potential impact on the health, safety, and environment of the surrounding community. He pointed out that the proposed telecommunications facility would be located in close proximity to his neighborhood and asked if the environmental impact of the facility had been sufficiently studied. He also stated that the facility might attract more lightning during a storm, thereby creating a safety hazard for students and nearby residents. In addition, Mr. Silberberg expressed concern about the noise generated by the generator for the facility and the potential health effects caused by the emissions of the facility. He then suggested that the facility be constructed at an alternative site along Burke Road near the railroad tracks.

There being no more speakers for this application, Chairman Murphy called for a rebuttal statement from Mr. Stearns, who addressed Mr. Silverberg's concerns about the environmental impact of the facility, stating that an environmental study had been conducted for the subject application. He then addressed concerns about potential health effects, saying that numerous studies had concluded that there were no negative health effects caused by the emissions from telecommunications facilities. He also pointed out that the facility was sufficiently grounded to alleviate concerns regarding lightning, adding that the area around the facility would be evacuated in the event of a lightning storm. Mr. Stearns added that the increased use of wireless devices made it necessary to locate the proposed facility in close proximity to a residential neighborhood to meet the growing demand for telecommunication services.

In response to questions from Commissioner Lawrence, Mr. Stearns confirmed that the proposed facility would improve service by enhancing the signal strength in the area and in areas of poor signal strength, the strain on the devices utilizing this signal would be greater. He also concurred that studies have shown that a wireless device operating in an area of poor signal strength generated greater emissions.

Commissioner Hedetniemi said that she had met with some of the residents in the surrounding neighborhood and they had indicated that the proposed facility was needed because the signal strength in the area was poor.

Answering questions from Commissioner Hall, Mr. Stearns stated that approximately 12 high schools in the County had similar telecommunications facilities, noting that some sites containing multiple facilities, and there had been no documented issues regarding health concerns. He added that the schools would fund a periodic review of the emissions. Commissioner Hall then addressed Mr. Silverberg's concerns, saying that these facilities had been operating for many years without incident. She also reiterated the growing demand for telecommunication services due to the increased use of wireless devices.

When Commissioner Hart asked whether the Commission was precluded from using health concerns as a basis for denial, Mr. Stearns confirmed that this was true. Chairman Murphy added

that the Telecommunications Act of 1996 also proclaimed that telecommunications facilities could not be denied on the basis of health concerns.

Chairman Murphy called for concluding staff remarks from Mr. Hansen, who noted that the community initially preferred that the proposed facility be located at Kings Park Shopping Center, but a study by the applicant concluded that service area would not be sufficient to accommodate demand in the Lake Braddock area.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hurley for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hurley MOVED THAT THE PLANNING COMMISSION FIND 2232-B13-8 SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Migliaccio seconded the motion which carried by a vote of 9-0. Commissioners de la Fe, Donahue, and Sargeant were absent from the meeting.

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Without objection, Chairman Murphy reconvened the public hearing for CSPA 2004-PR-044-02. There being no speakers for this application, Chairman Murphy noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on case. (A verbatim excerpt is in the date file.)

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Commissioner Lawrence THAT THE PLANNING COMMISSION APPROVE CSPA 2004-PR-044-02, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 5, 2013, AND THE FOLLOWING MODIFICATION:

- REVISE DEVELOPMENT CONDITION NUMBER 21 TO READ, "THE APPLICANT MAY CONVERT SIGNS SHOWN IN THIS CSPA TO DIGITAL SIGNS. OTHER SIGNS NOT CURRENTLY SHOWN AS "INTEGRATED CHANGEABLE ELECTRONIC DISPLAY" ON PAGE SLP 1 ON THE CSPA SHALL NOT CONTAIN CHANGEABLE MESSAGES; HOWEVER, SIGNS DISPLAYING PARKING COUNT INFORMATION MAY BE UPDATED IN REAL-TIME TO REFLECT ACCURATE PARKING COUNTS."

Commissioner Hart seconded the motion which carried by a vote of 8-0. Commissioner Litzenberger was not present for the vote. Commissioners de la Fe, Donahue, and Sargeant were absent from the meeting.

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SE 2013-MV-006 – MOHAMMAD MANSOOR – Appl. under Sect. 6-105 of the Zoning Ordinance to permit a home child care facility with an enrollment of 10 children at one time. Located at 8476 Wasdale Head Dr., Lorton, on approx. 7,420 sq. ft. of land zoned PDH-4. Tax Map 107-3 ((6)) 9. MOUNT VERNON DISTRICT. PUBLIC HEARING

Mohammad Mansoor, applicant, reaffirmed the affidavit dated February 7, 2013. There were no disclosures by the Commissioners.

Commissioner Flanagan asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Flanagan MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2013-MV-006, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 19, 2013.

Commissioner Litzenberger seconded the motion which carried by a vote of 9-0. Commissioners de la Fe, Donahue, and Sargeant were absent from the meeting.

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SE 2013-LE-003 – DDR SOUTHEAST SPRING MALL, LLC – Appl. under Sect. 4-804 of the Zoning Ordinance to permit a fast food restaurant. Located at 6717 Spring Mall Road, Springfield, on approx. 5.04 ac. of land zoned C-8 and SC. Tax Map 90-2 ((1)) 51. LEE DISTRICT. PUBLIC HEARING

Inda Stagg, Applicants Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated June 5, 2013.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had an ongoing case where attorneys from Ms. Stagg's firm were representing an adverse party, but that matter and those parties were unrelated to this case and there was no financial relationship; therefore, it would not affect his ability to participate in this public hearing.

St. Clair Williams, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application SE 2013-LE-003.

Ms. Stagg pointed out that the applicant had not been the owner of the subject property at the time when the existing eating establishment (Subway) was issued a violation by the Department of Code Compliance (DCC) on June 14, 2002. She added that the subject property had changed ownership multiple times since this violation and the current owner of the Subway had not owned the establishment prior to this violation. She then explained that the violation was issued because the Subway had been operating as an eating establishment, but was classified under the Zoning Ordinance as a fast food restaurant and fast food restaurants required a Special Exception to operate in a C-8 District. Ms. Stagg stated that the applicant had worked to satisfy the necessary conditions and noted that it had no other outstanding violations or concerns.

Commissioner Migliaccio announced his intent to defer the decision only on this application to allow the Lee District Land Use Committee to make a recommendation on it at its meeting on Monday, September 23, 2013.

A discussion ensued between Commissioner Migliaccio and Ms. Stagg regarding changes to the development conditions during the deferral period wherein Ms. Stagg expressed support for the following revisions:

- Adding a development condition that would prohibit re-installing the donation boxes that had been previously located on the site; and
- Adding a development condition that would specify the hours of operation for the Subway.

When Commissioner Lawrence asked Ms. Stagg to describe the naturalized vegetated area that would be installed along the eastern edge of the subject property, Ms. Stagg explained that this area was added at the request of the Lee District Land Use Committee to provide additional stormwater detention and filtration for the site. She added that the vegetated area would span most of the area along the eastern property line and the proposed vegetation would include shrubs and flowering plants. In addition, she said that a temporary fence would be installed along the vegetated area while the plantings matured. A discussion ensued between Commissioner Lawrence and Ms. Stagg regarding the appearance and existing condition of the vegetated area wherein Ms. Stagg confirmed that this area would not be mowed.

Chairman Murphy called for speakers but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Migliaccio for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2013-LE-003, DDR SOUTHEAST SPRING MALL, LLC, TO A

DATE CERTAIN OF OCTOBER 3, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioners Hart, Flanagan, Hedetniemi, and Lawrence seconded the motion which carried by a vote of 9-0. Commissioners de la Fe, Donahue, and Sargeant were absent from the meeting.

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The meeting was adjourned at 9:35 p.m.


Peter F. Murphy, Chairman

Janet R. Hall, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: July 17, 2014



John Cooper, Clerk to the
Fairfax County Planning Commission